

The appellant adds that his driver's abstract incorrectly lists the Somerset address. In this regard, the appellant contends that the Somerset address is where his wife used to live, and his marriage certificate confirms that his wife's address was in Somerset. The appellant adds that his marriage license also confirms that he lived in Newark, and he maintains that he continued to live in Newark after he was married. In addition, the appellant asserts that his credit report incorrectly lists Stewartsville as his address, as his brothers actually live in Stewartsville. In support, the appellant provides a copy of his Wage and Income Transcript, Form W-2 and Wage Tax Statement, issued by the Internal Revenue Service (IRS) from 2010 through 2014, which indicates a Newark address.¹ He also provides a copy of his marriage license dated May 23, 2011, which indicates the appellant's residence as Newark.

Despite being provided the opportunity, the appointing authority did not provide a response.

CONCLUSION

N.J.A.C. 4A:4-2.11(c) provides in pertinent part that where residence requirements have been established in local service, residence means a single legal residence. The following standards shall be used in determining local legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner (see section 4 of P.L. 2003, c.246), a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other

¹ It is noted that the Wage and Income Transcript lists an East Orange address and a Newark address.

documents is the same as the legal residence. Post office box numbers shall not be acceptable; and

6. Whether the school district attended by children living with the individual is the same as the claimed residence.

See e.g., In the Matter of Roslyn L. Lightfoot (MSB, decided January 12, 1993) (Use of a residence for purposes of employment need and convenience does not make it a primary legal residence when there is a second residence for which there is a greater degree of permanence and attachment). *See also, In the Matter of James W. Beadling* (MSB, decided October 4, 2006). Moreover, *N.J.A.C. 4A:4-2.11(e)1* states that unless otherwise specified, residency requirements shall be met by the announced closing date for the examination. When an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment. Additionally, *N.J.A.C. 4A:4-4.7(a)7* provides that discontinuance of an eligible's residence in the jurisdiction to which an examination was limited or for a title for which continuous residence is required is a cause for disqualification from an eligible list. *N.J.A.C. 4A:4-6.3(b)*, in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In the instant matter, the appellant asserts that his primary residence is located in Newark and he has continuously lived there since the March 31, 2010 closing date. He provides a copy of his marriage certificate and Tax Wage and Income transcript in support of his claims. The appointing authority provides evidence, including the appellant's driver's abstract and his credits reports, indicating that he maintained addresses in East Orange, Stewartsville, and Bedford Virginia after the March 2010 closing date. *N.J.A.C. 4A:4-2.11(e)1* requires the appellant to maintain continuous residence from March 31, 2010 up to and including the date of appointment. Residence means a single legal residence. *See N.J.A.C. 4A:4-2.11(c)*. Considering the factors set forth in *N.J.A.C. 4A:4-2.11(c)*, the documentation submitted by the appellant on appeal is insufficient to show that he has maintained continuous residency in Newark since March 2010. The information submitted from the appellant on appeal, in and of itself, does not substantially refute that he did not live in East Orange, Stewartsville, or Bedford Virginia after the closing date. In this regard, since the marriage certificate is dated 2011 and the Tax Wage and Income is dated 2014, such information does not establish that he maintained continuous residency in Newark after the March 2010 closing date. Additionally, the appellant's argument that his wife lived in Somerset and his brothers lived in Stewartsville is not persuasive. The appellant's driver's abstract clearly shows that he lived in Somerset in January 2013 and his credit report reflects that he lived in Stewartsville. Additionally, page two of the 2014 Tax

Wage and Income transcript actually confirms the appointing authority's contention that the appellant lived in East Orange, as it indicates that his 2013 form 1099 G was mailed to an East Orange address. The appellant has not provided an explanation regarding why the Virginia address appears on his credit report. As such, the appellant has not provided any substantive evidence to show that he maintained continuous residency in Newark after the closing date.

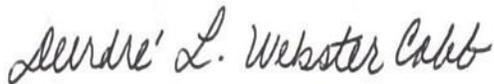
Therefore, under these circumstances, the appointing authority has presented a sufficient basis to remove the appellant's name from the Fire Fighter (M2554M), City of Newark, eligible list due to his failure to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4th DAY OF APRIL, 2018



Deidre Webster Cobb
Acting Chairperson
Civil Service Commission

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